

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, California 95110-1795

Hearing Date/Agenda Number
P.C. 3/13/02 Item. 3.f

File Number
CP 01-08-074

Application Type
Conditional Use Permit

Council District
7

Planning Area
South San Jose

Assessor's Parcel Number(s)
472-10-122

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Bill Scott

Location: Approximately 650 feet northerly terminus of Olinder Court.

Gross Acreage: 2.0

Net Acreage: 2.0

Net Density: N/A

Existing Zoning: IP Industrial Park

Existing Use: Wireless communication monopole

Proposed Zoning: No change

Proposed Use: Replacement of a 45-foot wireless communication monopole
with a 60-foot wireless communication monopole

GENERAL PLAN

Completed by: BS

Land Use/Transportation Diagram Designation
Industrial Park

Project Conformance:
☒ Yes ☐ No
☐ See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: BS

North: State Route 680/101 Interchange

N/A

East: Industrial, State Route 680/101 Interchange

IP Industrial Park

South: Industrial

IP Industrial Park

West: Industrial

IP Industrial Park

ENVIRONMENTAL STATUS

Completed by: BS

☐ Environmental Impact Report found complete
☐ Negative Declaration circulated
☐ Negative Declaration

☒ Exempt
☐ Environmental Review Incomplete

FILE HISTORY

Completed by: BS

Annexation Title: McLaughlin No. 9

Date: July 1, 1962

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☒ Approval
☐ Approval with Conditions
☐ Denial
☐ Uphold Director's Decision

Date: _____

Approved by: _____
☐ Action
☐ Recommendation

APPLICANT

OWNER

Clarence Chavis
Crown Castle USA, Incorporated
6620 Owens Drive, Pleasanton CA 94588

Steven Dyprick
P.O. Box 8971 Rancho Santa Fe CA
92067

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: BS

Department of Public Works

None received.

OTHER DEPARTMENTS AND AGENCIES

Fire Department

See attached memorandum.

GENERAL CORRESPONDENCE

None received

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, Crown Castle Incorporated, is requesting a Conditional Use Permit to allow replacement of an existing 45-foot wireless communication monopole with a 60-foot monopole, installation of three new wireless communications antennas, retention of an existing antenna facility and construction of an ancillary equipment shelter in the IP Industrial Park Zoning District. A Conditional Use Permit is required for wireless communication antennas in the IP District. The project site is a 2-acre parcel located approximately 650 feet northeasterly of the northerly terminus Olinder Court.

The existing 45-foot tall wireless facility was approved in 1990 through Site Development Permit File Number H90-07-083. The permit application included a Development Variance (File No. V90-07-024) to allow the proposed 50-foot monopole to exceed the 45-foot height limit of the I Industrial District. Both applications were denied by the Director of Planning due to concerns regarding the visibility of the facility from the freeway. On appeal, the Planning Commission denied the Variance but approved the monopole at a height of 45 feet. The applicant is now requesting to replace the existing monopole with a new “slimline” pole, replace three existing antennas with three flush-mounted antennas at the top of the pole and install three new flush-mounted antennas at a height of approximately 48 feet. A small ancillary equipment cabinet will be constructed for use by the new provider (Metro PCS) and an existing 260 square-foot equipment shelter used by Verizon will remain. A new six-foot masonry wall will be constructed to enclose the proposed equipment and monopole.

The property is accessed through an ingress/egress easement that extends over 600 feet northeasterly from the northerly terminus of Olinder Court. Surrounding uses include the Interstate 280/U.S. 101 interchange to the north and east and warehouses and other industrial uses to the south and west.

In 1996, staff explored the issues of electromagnetic radiation to determine if emissions from the proposed antennas posed a public health concern. Staff found that the low-frequency, low-energy, non-ionizing emission associated with wireless communications antennas were well below the recognized safety standards set by the American National Standards Institute (ANSI). Staff concluded there was no evidence that such transmission would result in adverse health effects to people living or working in the vicinity of the antennas. Further, Staff investigated reports that wireless communication transmission interfered with hearing aids, pace makers, and other electronic devices. Staff determined the reported interference resulted from cordless telephones and not from the antennas.

PUBLIC OUTREACH

A notice of the Planning Commission public hearing was mailed to all owners and tenants of property within a 500-foot radius of the project site. Staff has been available to discuss the project with members of the public.

ENVIRONMENTAL REVIEW

Under Section 15303(c) of the California Environmental Quality Act, the construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure are exempt from environmental review. The Director of Planning has found this project to be exempt from environmental review.

GENERAL PLAN CONFORMANCE

The proposed use is consistent with the General Plan Land Use Transportation Diagram Designation of Industrial Park. Wireless communication antennas are allowed on parcels with the Industrial Park designation.

ANALYSIS

The primary issues associated with this proposal are conformance with the City Council's *Land Use Policy for Wireless Communication Facilities* (Council Policy 6-20) and conformance with the Zoning Code.

Conformance with Council Policy 6-20

Council Policy 6-20 provides direction for this proposal in regard to collocation, visibility, and parking, as discussed below.

Collocation

Council Policy 6-20 specifies that new freestanding monopoles should not be implemented where building-mounted or collocation facilities are feasible and would reduce visual impacts. A recent alternatives analysis (see attached) concludes that there are no feasible opportunities in this area to mount the antennas on an existing building. The current project proposes collocation of antenna facilities for two wireless communication companies on a single, 60-foot monopole. Staff has concluded that collocation on a taller, slim-design monopole would result in reduced impacts as compared to two freestanding monopoles.

Visibility

Council Policy 6-20 specifies that freestanding monopoles should be designed to minimize public visibility, and where visibility cannot be avoided, additional landscaping should be provided to compensate for the visual impact of the antennas.

The proposed monopole will be most visible from the eastbound Interstate 280/southbound U.S 101-exit ramp. Due to its location on a relatively large industrial site, its visibility from Olinder Court is minimal. To offset the visual effects of the height increase, the applicant is proposing a slim pole design with flush-mounted antennas in conformance with the Policy. Trees are proposed along the westerly property line as replacement for two trees proposed for removal and to provide off-setting visual mitigation in conformance with the Council Policy.

Parking

Council Policy 6-20 states that wireless communication facilities should not reduce existing parking on the site unless the zoning district parking requirements can still be met. The proposed wireless communication facility will not reduce parking.

Conformance to the Zoning Ordinance

The Zoning of this site and the height limitations for monopoles have changed since the 1990 application for the existing monopole. The site is now zoned IP Industrial Park Zoning District. The height limit in the IP District remains 45 feet; however, the Zoning Code now includes a height exception allowing monopoles with a “slim” design to extend to a maximum of 60 feet in height. The proposed project includes a slim design with the flush-mounted antennas in conformance with these height exception provisions. The project is in conformance with the setback requirements and all other provisions of the IP Industrial Park District.

Conclusion

Based on this analysis, staff concludes that the proposed project conforms to Council Policy 6-20 and is in conformance with the Zoning Code.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and Development Variance and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. The proposed site is located in the IP Industrial Park Zoning District.

2. The site has a designation of Industrial Park on the San Jose 2020 General Plan Land Use/Transportation Diagram.
3. The project site is developed with an industrial building and an existing 45-foot monopole with associated equipment.
4. The project site is used for warehouse and wireless communication facility uses.
5. The project site is a 2.0-acre parcel.
6. Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.
7. The developer is requesting a Conditional Use Permit to allow replacement of an existing 45-foot wireless communication monopole with a 60-foot monopole, installation of three new wireless communications antennas, retention of an existing antenna facility and construction of an ancillary equipment shelter in the IP Industrial Park Zoning District. A small ancillary equipment cabinet will be constructed for use by the new provider (Metro PCS) and an existing 260 square-foot equipment shelter used by Verizon will remain. A new six-foot masonry wall will be constructed to enclose the proposed equipment and monopole.
8. A Conditional Use Permit is required for wireless communication antennas in the IP Industrial Park Zoning District.
9. The existing 45-foot tall wireless facility was approved in 1990 through Site Development Permit File Number H90-07-083. The permit application included a Development Variance (File No. V90-07-024) to allow the proposed 50-foot monopole to exceed the 45-foot height limit of the I Industrial District. Both applications were denied by the Director of Planning due to concerns regarding the visibility of the facility from the freeway. On appeal, the Planning Commission denied the Variance but approved the monopole at a height of 45 feet.
10. The project site is a 2-acre parcel located approximately 650 northeasterly of the northerly terminus Olinder Court. The subject site is adjacent to the southerly right-of-way of the Interstate 280/U.S. 101 Interchange.
11. Surrounding uses include the Interstate 280/Highway 101 interchange to the north and east and warehouses and other industrial uses are to the south and west.
12. The facility will be visible from Interstate 280. Visibility from Olinder Court is minimal.
13. To minimize visibility, the proposed antennas have been flush-mounted to provide a slim design monopole.

14. Trees are proposed along the westerly property line to provide off-setting visual mitigation in conformance with the Council Policy. The Policy also specifies that ancillary equipment be screened. The proposed equipment cabinets will be enclosed within a 6-foot wall.
15. Council Policy 6-20 states that wireless communication facilities should not reduce existing parking on the site unless the zoning district parking requirements can still be met. The proposed wireless communication facility will not reduce parking on the subject site.
16. The Zoning Code specifies that the maximum height in the IP Industrial Park Zoning District is 45 feet, but provides a height exception allowing monopoles with a “slim” design to extend to a maximum of 60 feet in height. The proposed project includes a slim design with the flush-mounted antennas in conformance with these height exception provisions.
17. The proposed monopole conforms to the setback requirements of the IP Industrial Park District.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The project conforms to the San Jose 2020 General Plan land use designation of Industrial Park.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. The proposed project is consistent with City Council Policy 6-20: *Land Use Policy for Wireless Communication Facilities*.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:

- a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
- b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "Crown Castle International Highway 101/680 San Jose CA" dated May 26, 2001" last revised January 7, 2002 on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 24).
2. **Construction Conformance.** A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.

3. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
4. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
5. **Lighting.** This permit allows no on-site lighting.
6. **Tree Removals.** No tree larger than 56 inches in circumference, at a height 24 inches above the natural grade slope, may be removed without a Tree Removal Permit issued by the Director of Planning.
7. **Outside Storage.** No outside storage is permitted for the project except in areas designated on the approved plan set.
8. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
9. **Colors and Materials.** All colors and materials are to be those specified on the approved plan set.
10. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, CP 01-07-074 shall be printed on all construction plans submitted to the Building Division.
 - b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
11. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief.
12. **Fire Hydrants and Driveways.** All fire hydrants shall be at least 10 feet from all driveways to the satisfaction of the Fire Chief.
13. **Fire Flow.** Required fire flow for the site is 2,000 gpm, or as otherwise approved in writing by the Fire Chief.
14. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE - NO PARKING," shall be provided to the satisfaction of the Fire Chief.

- 15 **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San José Municipal Code on the site must be used and stored within approved buildings and/or within areas specified on the approved plan set, if any, in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San José Fire Prevention Bureau.
- 16 **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
- 17 **Discontinuation of Use.** Upon discontinuation of the use of the subject antennas, the applicant shall remove all antenna and monopole improvements associated with this permit within 30 days.
- 18 **Temporary Portable Generator Maximum Allowed Power Rating.** No temporary portable generator with a power rating greater than 50 horsepower shall be allowed on the subject site.
- 19 **Temporary Portable Generator Usage.** The hours of operation of the temporary portable generator shall be limited to a maximum of 100 hours per year.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

3. **Time Limit.** This Conditional Use Permit expires and has no further force or effect five years from the date this Permit. Please note that this Conditional Use Permit has been granted for a period of 5 years only. You are being specifically and separately advised of this time limitation so that you will consider this time limitation in your decision to accept this permit or as you make any investment decision related to this property.`
 4. **Renewal.** The permit holder may seek renewal of a time-conditioned Conditional Use Permit by filing a timely renewal application on the form provided by the Director of Planning, Building and Code Enforcement. In order to be timely, an application for renewal must be filed more than 90 calendar days but less than 180 calendar days prior to the expiration of the Conditional Use Permit. Once a renewal application has been filed in a timely manner, the expiration date of the Conditional Use Permit is automatically extended until either the issuance or denial of the application for renewal has become final.
- c: Building Division (2)
Engineering Services